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Hong Kong Enacts Food Safety Bill

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Report Highlights:

On March 30, 2011, the Hong Kong Legislative Council approved its new Food Safety Bill. The new food law aims to strengthen the Hong Kong Government's food safety control system and has an effective date of August 1, 2011. However, certain penalty provisions in the new law will be enforced only after a six months grace period, meaning that the law will be fully implemented in February 2012. ATO Hong Kong does not expect the new food law to significantly impact U.S. exports to Hong Kong. Of note, the Bill will require mandatory registration of food importers and distributors. Exhibitors bringing in food to Hong Kong for exhibition purposes could apply for a registration exemption via their show organizers. The bill will also require a protocol for certification requirements for seafood exports to Hong Kong, although no details or implementation date has been established for this provision.

Summary

On March 30, 2011, the Hong Kong Legislative Council approved its new Food Safety Bill. The new food law aims to strengthen the Hong Kong Government's food safety control system and has an effective date of August 1, 2011. However, certain penalty provisions in the new law will be enforced only after a six months grace period, meaning that the law will be fully implemented in February 2012. ATO Hong Kong does not expect the new food law to significantly impact U.S. exports to Hong Kong. However, the enactment of Hong Kong's Food Safety Bill will require a mandatory registration scheme for food importers and distributors. Exhibitors bringing in food to Hong Kong for exhibition purposes could apply for registration exemption via their show organizers. No exemption fee will be required. Another significant component of the Bill which will affect U.S. exports is a new certification requirement for seafood products via a to-be-enacted subsidiary regulation. There is no timeframe for the enactment of the subsidiary regulation on seafood certification.

Background on the Bill

In 2007, the Hong Kong Government (HKG) revealed its intention to introduce a Food Safety Bill to strengthen its food safety control system after a series of food contamination incidents. For example, "Sudan Dye" was found in Chinese eggs, and malachite green was found in freshwater fish exports to Hong Kong in late 2006. More recently in 2008, Hong Kong was hit by unexpected melamine contamination incidents associated with dairy products imported from Mainland China.

The new food safety law stipulates the mandatory registration for food importers and distributors, record-keeping requirements and mandatory food recall powers. ATO Hong Kong does not expect the new food law to significantly impact U.S. exports to Hong Kong. (For more details on the food law, please see GAIN Reports #HK0005 and #HK0015).

Registration Exemption

The new food law aims to strengthen new food safety control tools. One big component of the law is the introduction of a mandatory registration scheme for food importers and distributors, requiring food traders to maintain proper records on the movement of food so as to enhance traceability.

However exporters bringing in food for trade exhibitions could be exempted from this mandatory registration process. In the draft "[Guide to the Registration Scheme for Food Importers and Food Distributors](#)", it was stated that the Director of Food and Environmental Hygiene Department is given the power to exempt a person from the registration requirement considering the following factors:

- Whether the information of the food importer/ distributor is readily available from other sources (e.g. in the case of exhibitors in a food exhibition, whether the detail information of the exhibitors would be available from the organizer);
- Whether the food in question would be used for exhibition purpose (including free tasting) or sold for human consumption; and

- The type and quantity of food that would be imported or distributed.

The draft Guide explains that “exhibitors in some major food exhibitions in Hong Kong may be exempted from registration as food importers. This is because organizers of these exhibitions generally possess detailed information of exhibitors, and exhibitors would only import small quantities of food over a short period of time for exhibition purposes. Many of them will only be importing food items on a one-off basis, without the intention of becoming a regular importer at that stage.”

The draft gave examples of “major food exhibitions”, namely HOFEX, Asian Seafood Exposition and Asia Fruit Logistica. It further explained that the government would consider exemptions for these shows because the purpose of which is to allow overseas food traders to promote their business and test new food products in the Hong Kong market. However, the HKG may impose conditions on the exemptions, e.g. stipulating that the food can only be used for exhibition purpose. In addition, food importers/distributors exempted from registration are still required to keep import or wholesale supply records, if any, under the law.

At a public forum, the HKG indicated that exhibitors do not need to apply for registration exemption. Instead, show organizers, who supposedly have the required information on their exhibitors, could apply for exemption from the HKG on behalf of their show exhibitors. The HKG does not require applicants to pay any exemption fee.

The draft “[Guide to the Registration Scheme for Food Importers and Food Distributors](http://www.cfs.gov.hk/english/whatsnew/whatsnew_fstr/whatsnew_fstr_Food_Safety_Bill.html)” is available at http://www.cfs.gov.hk/english/whatsnew/whatsnew_fstr/whatsnew_fstr_Food_Safety_Bill.html

Seafood Certification

Another component of the new food safety law that is expected to affect U.S. exports is the health certification requirements for meats, poultry eggs and seafood exports to Hong Kong through its two subsidiary regulations, which have yet to be introduced to the Legislative Council. For U.S. exports, the new law will primarily impact U.S. seafood exports because previous agreements already satisfy certification requirements for meats and eggs. A protocol for certification requirements for U.S. seafood exports to Hong Kong is yet to be discussed in detail. The two subsidiary regulations are expected to be introduced after the enactment of the Food Safety Bill itself.